REMARKS/ARGUMENTS

The claims have been divided into Groups as follows:

Group I	Claims 1-6, 9-17 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=phenyl;
Group II	Claims 1-6, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=pyridinyl;
Group III	Claims 1-6, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=quinoxalinyl;
Group IV	Claims 1-6, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=thiazolyl;
Group V	Claims 1-6, 9-13, 15-17 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=thienyl;
Group VI:	Claims 1-6, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=furanyl;
Group VII	Claims 1-6, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = thienyl and R1 is –CH2-A or CH2-CH2-A wherein A=piperidinyl;
Group VIII	Claims 1-18 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=phenyl;
Group IX	Claims 1-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=pyridinyl;
Group X	Claims 1-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=quinoxalinyl;
Group XI	Claims 1-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=thiazolyl;
Group XII	Claims 1-13, 15-17 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl

and R1 is –CH2-A or CH2-CH2-A wherein A=thienyl;

Group XIII Claims 1-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=furanyl;

Group XIV Claims 1-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = phenyl and R1 is –CH2-A or CH2-CH2-A wherein A=piperidinyl;

Group XV Claims 1, 2, 6-7, 9-17 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=phenyl;

Group XVI Claims 1, 2, 6-7, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=pyridinyl;

Group XVII Claims 1, 2, 6-7, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=quinoxalinyl;

Group XVIII Claims 1, 2, 6-7, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=thiazolyl;

Group XIX Claims 1, 2, 6-7, 9-13, 15-17 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=thienyl;

Group XX Claims 1, 2, 6-7, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=furanyl;

Group XXI Claims 1, 2, 6-7, 9-12, 15, 16 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy = pyridinyl and R1 is –CH2-A or CH2-CH2-A wherein A=piperidinyl;

Group XXII Claims 1-18 and 27-29 are drawn to compounds and pharmaceutical compositions of Formula I, that are not encompassed by Groups I-XXI;

Group XXIII Claims 19 and 21-22 are drawn to a method of treating and preventing metabolic disorders mediated by insulin resitance or hyperglycemia limited to the scope of one of Groups I-XXII;

Group XXIV Claims 20-22 are drawn to a method of treating and preventing diabetes type II, obesity, or appetite regulation limited to the scope of one of Groups I-XXII;

Group XXV Claims 23-26 are drawn to a method of modulating and inhibiting the acitivity of PTPs limited to the scope of one of Groups I-XXII;

Group XXVI Claim 30 is drawn to a method of preparing compounds of Formula I limited to the scope of one of Groups I-XXII;

Group XXVII Claim 31 is drawn to a distinct method of preparing compounds of Formula I limited to the scope of one of Groups I-XXII;

Group XXVIII Claim 32 is drawn to a distinct method of preparing compounds of Formula I limited to the scope of one of Groups I-XXII;

Group XXIX Claim 33 is drawn to a distinct method of preparing compounds of Formula I limited to the scope of one of Groups I-XXII;

Additionally, the Examiner has indicated that all of Groups I-XXIX require a further election of a single disclosed species.

Applicants elect, with traverse, Group VIII, Claims 1-18 and 27-29 (drawn to compounds and pharmaceutical compositions of Formula I, wherein Cy=phenyl and R1 is -CH-A or -CH2-CH2-A wherein A=phenyl), for examination.

Applicants also provisionally elect, for examination purposes only, the species of Formula I as follows: {{4-[(4-hexylphenyl)ethynyl]benzyl}[4-(trifluoromethyl)benzyl]amino}-(oxo)acetic acid [Example 320 of the specification, pg 219].

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Examiner has indicated that the Groups do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2,

> "the special technical feature of this invention is the common core found in Formula I ... this special technical feature ... is described by *Lui* ... the technical features present fail to define a contribution over the prior art".

Applicants respectfully note that Annex B of the Administrative Instructions under the PCT at (b) Technical Relationship states:

> "The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any)."

Applicants respectfully submit that the Examiner has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity and therefore has not met the burden necessary to support the assertion.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

SUPPORT FOR THE AMENDMENT

Claims 1-18 and 27-33 are currently amended to remove improper multiple dependency, to improve readability and to place the application in better format for further examination. Claims 19-26 are canceled without prejudice. Claims 34-41 are added and find support in original claims 19-26. No new matter has been entered.

The Office has asserted that claims 9, 10, 15, 22, 23 and 27 are improper for failing to further limit the subject matter of a previous claim (Office Action pg 2, 1st para.). Applicants point out that M.P.E.P. 2173.05(h) states:

> "The use of Markush claims of diminishing scope should not, in itself, be considered a sufficient basis for objection to or rejection of claims. However, if such a practice renders the claims indefinite or if it results in undue multiplicity, an appropriate rejection should be made."

Each of the objected to claims is a further limitation of a previous claim because it narrows the scope of the previous Markush group. For example, claim 9 (which is dependent from claim 1) narrows the scope of R^1. More specifically, claim 1 includes any aryl, heteroaryl, (3-8-membered)-cycloalkyl or (3-8-membered)-heterocycloalkyl, whereas claim 9 includes specifically a $-CH_2$ or $-CH_2CH_2$-aryl, $-CH_2$ or $-CH_2CH_2$-heteroaryl, $-CH_2$ or $-CH_2CH_2$-(3-8-membered)-cycloalkyl, or $-CH_2$ or $-CH_2CH_2$-(3-8-membered)-heterocycloalkyl.

Accordingly, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the objections and passage of this case to issue.

Respectfully Submitted,

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